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8 UNITED STATES DISTRICT COURT  
9 NORTHERN DISTRICT OF CALIFORNIA  
10 SAN JOSE DIVISION  
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12 CATHY ENWERE,

13 Plaintiff,

14 v.

15 Terman Associates, L.P., dba  
16 Terman Apartments, et al.,

17 Defendants.

Case No.: C 07-1239 JF (PVT)

**ORDER RE DEFENDANTS' MOTION TO  
COMPEL SAN MATEO COUNTY HEALTH  
DEPARTMENT TO PRODUCE DOCUMENTS  
PURSUANT TO SUBPOENA**

18 On November 10, 2008, Defendants filed a Motion to Compel San Mateo County Health  
19 Department to Produce Documents Pursuant to Subpoena.<sup>1</sup> Plaintiff opposed the motion. Non-Party  
20 San Mateo County Health Department ("San Mateo") submitted the subpoenaed records to the court  
21 in two sealed envelopes, along with a cover letter asserting the confidentiality of the records and  
22 asking the court to conduct and *in camera* review of the records for relevancy and confidentiality  
23 prior to release.<sup>2</sup> This court issued an interim order, setting a deadline of December 16, 2008 for  
24 any party who objected to the *in camera* review to file a brief setting forth the basis for the objection.  
25 No objection was filed by any of the parties. The court also noted that, if Plaintiff filed an objection  
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27 <sup>1</sup> The holding of this court is limited to the facts and the particular circumstances  
28 underlying the present motion.

<sup>2</sup> A copy of the cover letter shall be electronically filed herein.

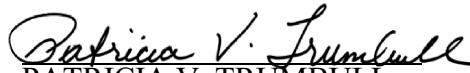
1 to this order by December 23, 2008,<sup>3</sup> the *in camera* review would automatically be stayed pending  
2 District Judge Fogel's ruling on Plaintiff's objection. Plaintiff did not file any such objection.  
3 Therefore, the court conducted the *in camera* review of the documents. Based on the court's *in*  
4 *camera* review, and the file herein,

5 IT IS HEREBY ORDERED that Defendants' motion to compel is GRANTED. San Mateo  
6 County Health Department ("SMCHD") shall promptly contact Defense counsel to set a mutually  
7 agreeable date and method for SMCHD to produce documents in compliance with the subpoena.  
8 The documents are relevant to Plaintiff's claims for emotional distress damages. As this court  
9 previously ruled, by alleging serious on-going mental and emotional distress, and seeking damages  
10 for those injuries, Plaintiff waived her right to privacy with respect to her mental health records to  
11 the extent her mental health information is relevant to this lawsuit. *See, e.g., Doe v. City of Chula*  
12 *Vista*, 196 F.R.D. 562, 569-70 (S.D. Cal. 1999).

13 IT IS FURTHER ORDERED that, absent further order of the court, Defense counsel shall  
14 not disclose the documents to anyone other than any expert witness retained by Defendants to opine  
15 on issues related to Plaintiff's emotional distress claims.

16 IT IS FURTHER ORDERED that Plaintiff has until January 22, 2009 (ten court days) to file  
17 any objection to this order. The court notes that, unless and until Plaintiff either files an objection or  
18 obtains a stay,<sup>4</sup> the provisions of this order govern disclosure of Plaintiff's mental health records by  
19 SMCHD.

20 Dated: 1/7/09

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22 PATRICIA V. TRUMBULL  
United States Magistrate Judge  
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28 <sup>3</sup> See FED.R.CIV.PRO. 72(a), 6(a)(2) & 6(d).

<sup>4</sup> Plaintiff has a request for time off from her case pending before District Judge Fogel.

*Counsel automatically notified of this filing via the court's Electronic Case Filing system.*

copies mailed on 1/7/09 to:

Cathy Enwere  
1263 Madera Ave.  
Menlo Park, CA 94025

Att'n: Keith Clausen  
San Mateo County Health Dep't  
225 - 37th Avenue  
San Mateo, CA 94403

/s/ Donna Kirchner for  
CORINNE LEW  
Courtroom Deputy